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June 2, 2010

BY ECF

Honorable Gary L. Sharpe
United States District Judge
Northern District of New York
James T. Foley U.S. Courthouse
445 Broadway, Room 441
Albany, New York 12207

**Re: *Kathleen Curns & Linda Zukaitis v. Wal-Mart Stores, Inc.*,
No. 06-CV-1336 (GLS)**

Dear Judge Sharpe:

We represent Plaintiffs Kathleen Curns and Linda Zukaitis ("Plaintiffs") in the above-referenced matter, which is currently scheduled for trial to commence on Monday, June 14, 2010. However, we have been advised by Your Honor's law clerk that the Court may be inclined to accelerate the commencement of trial to this Monday, June 7. Although Plaintiffs are prepared to proceed to trial at the Court's convenience,¹ Defendant Wal-Mart Stores, Inc. ("Defendant" or "Wal-Mart") has scheduled the pretrial "preservation" deposition of Wal-Mart Manager Randall Sims to take place this Friday, June 4, and has informed us that it intends to proceed with Sims' deposition, even in the event that the final conference in this case is accelerated to take place tomorrow, Thursday, June 3, and the trial to commence on Monday, June 7. Because attending to Sims' deposition on the final business day before trial would be prejudicial to Plaintiffs' final pretrial preparations, we write to respectfully request that, in the event that the trial is accelerated to commence on June 7, the Court reconsider and rescind its prior authorization for Wal-Mart to conduct Sims' pretrial deposition (*see* ECF #96).²

¹ The only potential issue that Plaintiffs might have with respect to commencing trial on June 7 is that we have been unable to confirm whether Ms. Curns' mental health practitioner, Kimberly Culver, will be available to testify next week, although she has confirmed her availability to testify during the week of June 14.

² As we previously advised the Court, Sims was already deposed during discovery, rendering his second deposition unnecessary in any event (*see* ECF #93).

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Thank you very much for Your Honor's consideration of this request.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'AG', is written over a light gray rectangular background.

Andrew S. Goodstadt

cc: Counsel for All Parties (*by ECF*)